IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.3708 OF 2004

IN

CRIMINAL APPEAL NO. 1038 OF 2004

Bhagwan Sarawati Tambe .. Applicant

versus

The State of Maharashtra .. Respondents

...

Mr.Naveen Chomal for the applicant.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 24th November 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant who is convicted by the trial Court u/s.304 of the IPC and sentenced to undergo RI

for 10 years. The prosecution case is that the accused assaulted his father-in-law with an iron pipe on his head, chin and knee, and he succumbed to the injuries and the applicant was charged u/s.302 of the IPC and on conviction the offence was converted to section 304(I). The applicant is in jail from the date of the incident and has already undergone 2 1/2 years of sentence. It appears from the fact that there was a sudden fight and the accused gave a blow on the head of the deceased. The appeal in any case is not likely to come up for hearing for some time.

3. The learned counsel for the applicant has taken me through the extract of the post mortem notes and out of the three injuries, the injury on the scalp has caused the death. The other injuries are simple injuries. In view of these facts, I am of the view that the applicant is entitled to be released on bail.

4. The applicant to be released on bail in the sum of Rs.5,000/- with one or two sureties in the like amount. He shall however report to Nashik Road Police station once in a month.

V.M. KANADE, J